

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|----------------------|---|----------------------------|
| ANTWAN WILLIAMS, |) | CASE NO. 1:05CV2829 |
| |) | |
| Petitioner, |) | JUDGE CHRISTOPHER A. BOYKO |
| |) | |
| vs. |) | |
| |) | |
| ERNIE MOORE, WARDEN, |) | <u>ORDER</u> |
| |) | |
| Respondent. |) | |

CHRISTOPHER A. BOYKO, J.:

This matter comes before the Court upon Petitioner's Motion for Relief from Judgment (ECF DKT #22). For the following reasons, Petitioner's Motion is overruled.

When the Court learned Petitioner had been removed from the institution and had not received the Magistrate Judge's Report and Recommendation on his Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254, the Order adopting that recommendation was vacated. (ECF DKT #17). Further, the matter was reinstated to the active docket. Days later, Petitioner filed his first Motion for Relief from Judgment (ECF DKT #18), moving for a sixty-day extension of time to file his objections to the Report and Recommendation. This Court, in a non-document order entered on May 16, 2007, denied the Petitioner's Motion as moot because the action was already reactivated. Any objections were ordered to be filed on or before May 22, 2007, ten business days after the reinstatement. Petitioner failed to file his objections by the extended deadline.

On June 26, 2007, over one month after the deadline for the filing of objections had passed, the Court adopted the Magistrate Judge's Report and Recommendation, dismissing

the Petition in part, denying the Petition in part, and denying a certificate of appealability. (ECF DKT #20).

On July 2, 2007, Petitioner filed his untimely Objections to the Report and Recommendation. On July 5, 2007, Petitioner filed his second Motion for Relief from Judgment. (ECF DKT #22). Petitioner contends there was a clerical error, in that the ruling was made before his requested sixty-day extension had expired.

This Court never granted Petitioner sixty days to file his Objections. Rather, Petitioner was given a specific extension until May 22, 2007. No objections were filed by that date, and no further extension was sought prior to the Court entering its decision. Petitioner has not demonstrated a right to relief from judgment, either on the basis of clerical mistake or excusable neglect.

Petitioner's Motion for Relief from Judgment is, therefore, overruled; and his untimely Objections are stricken. The Court further certifies pursuant to 28 U.S.C. § 1915 (a)(3) that an appeal from this decision could not be taken in good faith; and there is no basis upon which to issue a certificate of appealability, since no reasonable jurist could conclude differently.

IT IS SO ORDERED.

DATE: July 16, 2007

s/Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge